

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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Order Instituting Rulemaking Regarding Policies, procedures and Rules for the California Solar Initiative, the Self-Generation Incentive Program and Other Distributed Generation Issues.

Rulemaking 06-03-004
(Filed March 2, 2006)

**CALIFORNIANS FOR RENEWABLE ENERGY, INC. (CARE) COMMENTS ON
FUEL CELL ENERGY (FCE) AMENDED PETITION**

On July 25, 2007, Fuel Cell Energy (FCE) filed a petition requesting the Commission modify Decision 04-12-045, issued in Rulemaking 04-03-017. On February 8, 2008, FCE amended its petition by providing additional information regarding its request to increase the limit of incentive payments available under the Self-Generation Incentive Program (SGIP) from the current cap of 1 megawatt (MW) to 3 MW. The ALJ's February 14, 2008 ruling requests that any parties who wish to file comments on the amended petition should do so no later than February 22, 2008. In commenting the ALJ directed that in their comments on FCE's amended petition, parties should address the following question:

Given the current record in this proceeding, should the Commission consider increasing the cap on incentives in SGIP from 1 MW to 3 MW for all renewable technologies (*i.e.* wind and fuel cells) or limit this change to renewable fuel cells?

Californians for Renewable Energy (CARE) respectfully submits these Comments opposing FCE's amended petition. CARE appreciates the opportunity to participate in this proceeding and to provide comments on FCE's amended petition to increase the limit of incentive payments available under the SGIP. On behalf of California ratepayers, CARE opposes this increase. The current up to 1 MW size provides incentives on the customer retail side of the meter and is

intended to assist in the development of multiple installations. 3MW size will concentrate incentives in fewer installations, and deplete the funds more quickly. It could also benefit a few larger companies with the capital and capacity to develop 3MW fuel cell installations, rather than encouraging development of the industry as a whole. Also we would like to point out that it encourages third party ownership by large companies like SunEdison (SunE) to the disadvantage of costumer generator ownership.

CARE cites the May 7, 2007 CSI spreadsheet to point out that SunE (a private company with third party system ownership) had 28 MW of the approximately 284 MW of reservations with only 2MW completed (at that time). Because the benefits of the system ownership goes to the banks that finance SunE as opposed to the customer-generators it was intended for the ratepayers end up privatizing the profit for the banks while socializing the system costs on the backs of the ratepayers if SunE doesn't actually intend to install 28 MW. This is because this run on the "reservation" bank by third-party owners reduces the incentive level for rebates substantially for customer-generator ownership.

The effect of increasing the incentive from 1 MW to 3MW's is substantial, on the funds, and on the administration of the program. Therefore, CARE concludes that the request to increase the incentive size be denied.

Respectfully submitted,



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Verification

I am an officer of the Intervening Corporation herein, and am authorized to make this verification on its behalf. The statements in the foregoing document are true of my own knowledge, except matters, which are therein stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 22nd day of February 2008, at San Francisco, California.



Lynne Brown Vice-President
CALifornians for Renewable
Energy, Inc. (CARE)

Certificate of copy sent electronically

To reduce the burden of service in this proceeding, the Commission will allow the use of electronic service, to the extent possible using the electronic service protocols provided in this proceeding. All individuals on the service list should provide electronic mail addresses. The Commission and other parties will assume a party consents to electronic service unless the party indicates otherwise.

I hereby certify that I have this day served the foregoing document "*CARE's comments on Fuel Cell Energy (FCE) amended petition*" under CPUC Docket R.06-03-004. Each person designated on the official service list, has been provided a copy via e-mail, to all persons on the attached service list on February 22, 2008 for the proceedings, R.06-03-004.



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